

Steven W. Ritcheson (SBN 174062)
INSIGHT, PLC
578 Washington Blvd. #503
Marina del Rey, CA 90292
(T) 818-744-8714
(F): 818-337-0383
swritcheson@insightplc.com

Isaac Rabicoff
(*Pro Hac Vice admission to be filed*)
RABICOFF LAW LLC
73 W Monroe St
Chicago, IL 60603
773-669-4590
isaac@rabilaw.com

**Attorneys for Plaintiff
Hydro Net LLC**

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

Hydro Net LLC,

Plaintiff,

v.

Topcon Positioning Systems, Inc.,

Defendant.

Case No. 20-cv-06116-NC

AMENDED COMPLAINT

AMENDED COMPLAINT FOR PATENT INFRINGEMENT

Plaintiff Hydro Net LLC (“Plaintiff”), through its attorneys, complains of Topcon Positioning Systems, Inc. (“Defendant”), and alleges the following:

PARTIES

1. Plaintiff Hydro Net LLC is a corporation organized and existing under the laws of Texas that maintains its principal place of business at 2108 Dallas Pkwy, Ste 214 - 1020, Plano, TX 75093-4362.

2. Defendant Topcon Positioning Systems, Inc. is a corporation organized and existing under the laws of California that maintains an established place of business at 7400 National Drive, Livermore CA 94550.

JURISDICTION

3. This is an action for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

4. This Court has exclusive subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a).

5. This Court has personal jurisdiction over Defendant because it has engaged in systematic and continuous business activities in this District, and is incorporated in this District’s state. As described below, Defendant has committed acts of patent infringement giving rise to this action within this District.

VENUE

6. Venue is proper in this District under 28 U.S.C. § 1400(b) because Defendant has committed acts of patent infringement in this District, has an established place of business in this District, and is incorporated in this District’s state. In addition, Plaintiff has suffered harm in this district.

PATENT-IN-SUIT

7. Plaintiff is the assignee of all right, title and interest in United States Patent No. 7,187,706 (the “’706 Patent”); (the “Patent-in-Suit”); including all rights to enforce and prosecute actions for infringement and to collect damages for all relevant times against infringers of the Patent-in-Suit. Accordingly, Plaintiff possesses the exclusive right and standing to prosecute the present action for infringement of the Patent-in-Suit by Defendant.

The ’706 Patent

8. The ’706 Patent is entitled “Handoff and source congestion avoidance spread-spectrum system and method,” and issued 03/06/2007. The application leading to the ’706 Patent was filed on 10/02/2001. A true and correct copy of the ’706 Patent is attached hereto as Exhibit 1 and incorporated herein by reference.

9. The ’706 Patent is valid and enforceable.

COUNT 1: INFRINGEMENT OF THE ’706 PATENT

10. Plaintiff incorporates the above paragraphs herein by reference.

11. **Direct Infringement.** Defendant has been and continues to directly infringe one or more claims of the ’706 Patent in at least this District by making, using, offering to sell, selling and/or importing, without limitation, at least the Defendant products identified in the charts incorporated into this Count below (among the “Exemplary Defendant Products”) that infringe at least the exemplary claims of the ’706 Patent also identified in the charts incorporated into this Count below (the “Exemplary ’706 Patent Claims”) literally or by the doctrine of equivalents. On information and belief, numerous other devices that infringe the claims of the ’706 Patent have been made, used, sold, imported, and offered for sale by Defendant and/or its customers.

1 12. Defendant also has and continues to directly infringe, literally or under
2 the doctrine of equivalents, the Exemplary '706 Patent Claims, by having its
3 employees internally test and use these Exemplary Products.

4 13. The service of this Complaint upon Defendant constitutes actual
5 knowledge of infringement as alleged here.

6 14. Despite such actual knowledge, Defendant continues to make, use, test,
7 sell, offer for sale, market, and/or import into the United States, products that
8 infringe the '706 Patent. On information and belief, Defendant has also continued to
9 sell the Exemplary Defendant Products and distribute product literature and website
10 materials inducing end users and others to use its products in the customary and
11 intended manner that infringes the '706 Patent. Thus, on information and belief,
12 Defendant is contributing to and/or inducing the infringement of the '706 Patent.

13 15. **Induced Infringement.** Defendant actively, knowingly, and
14 intentionally has been and continues to induce infringement of the '706 Patent,
15 literally or by the doctrine of equivalents, by selling Exemplary Defendant Products
16 to their customers for use in end-user products in a manner that infringes one or
17 more claims of the '706 Patent.

18 16. **Contributory Infringement.** Defendant actively, knowingly, and
19 intentionally has been and continues materially contribute to their own customers'
20 infringement of the '706 Patent, literally or by the doctrine of equivalents, by selling
21 Exemplary Defendant Products to their customers for use in end-user products in a
22 manner that infringes one or more claims of the '706 Patent. Moreover, the
23 Exemplary Defendant Products are not a staple article of commerce suitable for
24 substantial noninfringing use.

25 17. Exhibit 2 includes charts comparing the Exemplary '706 Patent Claims
26 to the Exemplary Defendant Products. As set forth in these charts, the Exemplary
27 Defendant Products practice the technology claimed by the '706 Patent.

28

1 Accordingly, the Exemplary Defendant Products incorporated in these charts satisfy
2 all elements of the Exemplary '706 Patent Claims.

3 18. Plaintiff therefore incorporates by reference in its allegations herein the
4 claim charts of Exhibit 2.

5 19. Plaintiff is entitled to recover damages adequate to compensate for
6 Defendant's infringement.

7 **JURY DEMAND**

8 20. Under Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff
9 respectfully requests a trial by jury on all issues so triable.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff respectfully requests the following relief:

- 12 A. A judgment that the '706 Patent is valid and enforceable;
13 B. A judgment that Defendant has infringed, contributorily infringed,
14 and/or induced infringement of one or more claims of the '706 Patent;
15 C. An accounting of all damages not presented at trial;
16 D. A judgment that awards Plaintiff all appropriate damages under 35
17 U.S.C. § 284 for Defendant's past infringement, and any continuing or
18 future infringement of the Patent-in-Suit, up until the date such
19 judgment is entered, including pre- or post-judgment interest, costs, and
20 disbursements as justified under 35 U.S.C. § 284 and, if necessary, to
21 adequately compensate Plaintiff for Defendant's infringement, an
22 accounting:
23 i. that this case be declared exceptional within the meaning of 35
24 U.S.C. § 285 and that Plaintiff be awarded its reasonable attorneys'
25 fees against Defendant that it incurs in prosecuting this action;
26 ii. that Plaintiff be awarded costs, and expenses that it incurs in
27 prosecuting this action; and
28

1 iii. that Plaintiff be awarded such further relief at law or in equity as the
2 Court deems just and proper.

3
4 Dated: September 21, 2020 Respectfully submitted,

5 /s/ Steven W. Ritcheson
6 Steven W. Ritcheson (SBN 174062)
7 INSIGHT, PLC
8 578 Washington Blvd. #503
9 Marina del Rey, CA 90292
 (T) 818-744-8714
 (F): 818-337-0383
 switcheson@insightplc.com

10 Isaac Rabicoff
11 *(Pro Hac Vice admission to be filed)*
12 **Rabicoff Law LLC**
13 73 W Monroe St
 Chicago, IL 60603
 (773) 669-4590
 isaac@rabilaw.com

14 **Counsel for Plaintiff**
15 **Hydro Net LLC**
16
17
18
19
20
21
22
23
24
25
26
27
28